

Appeal from a decision of the Alaska District Office, Bureau of Land Management, rejecting the recordation of notices of location for various mining claims and declaring those claims null and void ab initio.

AA 27437-AA 27439.

Affirmed.

1. Mining Claims: Recordation--Mining Claims: Withdrawn Land

A mining claim located when the land was withdrawn from all forms of appropriation under the public land laws, including the mining laws, is null and void ab initio and BLM properly rejects recordation of such a claim.

APPEARANCES: James E. and Georgia H. Morgan, pro sese.

OPINION OF ADMINISTRATIVE JUDGE BURSKI

Georgia H. Morgan and James E. Morgan have appealed from a decision of the Anchorage District Office, Bureau of Land Management (BLM), dated May 22, 1986, rejecting appellants' mining claims recordation filings for placer mining claims AA 27437, AA 27438, and AA 27439, and declaring the claims null and void ab initio.

The record indicates that appellants filed location notices for the subject placer mining claims with BLM on August 6, 1979, in compliance with section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. | 1744 (1982). The notices stated that the claims had been located between July 29 and August 1, 1979, within an area encompassed by protracted T. 8 S., R. 71 W., Seward Meridian, Alaska.

In its decision, BLM found that the lands embraced by the locations had been previously withdrawn from entry under the mining laws by Public Land Order (PLO) 5179, issued effective March 9, 1972, under the authority of section 17(d)(1) and 17(d)(2) of the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. | 1616(d)(1) and (2) (1982). See generally, Dutch Creek Mining Co., 98 IBLA 241 (1987). Inasmuch as the lands had never been restored to entry under the mining laws, BLM declared the subject claims null and void ab initio.

[1] It is well established that a mining claim located on lands pre-viously withdrawn from appropriation under the mining laws is null and void ab initio. Dutch Creek Mining Co., supra. Lands included in a withdrawal remain withdrawn until there is a formal revocation or modification of the withdrawal. It is immaterial whether the lands are presently being used for the purpose for which they were withdrawn or whether a future revocation of the withdrawal is being considered. Ronald W. Ramm, 67 IBLA 32 (1982); Tenneco Oil Co., 8 IBLA 282 (1972). Accordingly, in light of the fact the record clearly establishes that the lands described in appellants' mining claims had been withdrawn from mineral entry several years before the claims were located, BLM properly found the claims to be null and void ab initio. Nevertheless, we respond to certain issues raised by appellants on appeal.

Appellants claim that at the time they originally filed their loca-tion notices, they were told by BLM employees that the claims were within T. 8 S., R. 71 W. They assert, however, that at the time they filed their notice of appeal, they "discovered \* \* \* that [the claims] are in Range 72 W. instead of Range 71 W." Apparently, appellants seek to show that the mistake in the land description invalidates the BLM decision on appeal. This argument must, however, be rejected.

In addition to the information concerning the withdrawal of T. 8 S., R. 71 W., the record also contains a copy of PLO 5181 (37 FR 5584 (Mar. 16, 1972)), which withdrew from mineral entry protracted T. 8 S., R. 72 W., Seward Meridian, and a copy of the master title plat (MTP) for this town- ship, noting that withdrawal. Thus, as the record reflects that both townships in their entirety have been and remain withdrawn from all entry under the mining laws, it is immaterial whether the claims are situated in T. 8 S., R. 72 W., or T. 8 S., R. 71 W. In either case, the claims would be null and void ab initio.

Appellants also assert that "in the public room of the BLM office in Anchorage, all the maps that we saw showed these claims as not being in the withdrawn lands. The maps \* \* \* all show these claims to be on the edge of, but outside of the withdrawn lands." They have also attached a copy of a map captioned "204-E Emergency FLPMA Withdrawals," which, they claim, shows that the lands at issue were not withdrawn.

Initially, we note that the map supplied by appellants, while gener-ally depicting the area in which the claims are situated, only purported to show certain withdrawals made in 1978 under the emergency procedures of section 204(e) of FLPMA, 43 U.S.C. | 1714(e) (1982). It clearly was not designed to show the withdrawals effected by the PLO's discussed above.

In any event, those making mining claims on Federal lands are deemed to have constructive notice of all information provided in PLO's, as pub- lished in the Federal Register. Moreover, the withdrawals in question were noted on the appropriate MTP's. MTP's are part of the Department's offi-cial land status records; the mere notation or recording thereon of a land withdrawal has the effect of segregating the land from all subsequent appro-priations, including locations under the mining laws. See David Cavanagh,

89 IBLA 285, 293, 92 I.D. 564, 569 (1985). A review of the relevant MTP's would clearly have put appellants on notice that the land embraced by their mining claims was withdrawn from mineral entry.

Finally, appellants state that they were told by BLM employees that their claims "were perfectly legal claims and not in the withheld lands." This Board has often noted that reliance on erroneous or incomplete information given by an employee of the Department cannot create any rights not authorized by law. Raymond T. Duncan, 96 IBLA 352 (1987); Silver Buckle Mines, Inc., 84 IBLA 306 (1985).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

---

James L. Burski  
Administrative Judge

I concur:

Gail M. Frazier  
Administrative Judge